



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,987	06/30/2003	Ken Prayoon Cheng	5670-17	1071
20792	7590	04/10/2006	EXAMINER	
MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			SINGH, RACHNA	
			ART UNIT	PAPER NUMBER
			2176	

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/609,987

Applicant(s)

CHENG ET AL.

Examiner

Rachna Singh

Art Unit

2176

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/17/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

- a. Species 1, claims 9, 12, and 29, drawn to a method wherein the received data record *comprises a network resource utilization and/or even indicator data collected by an application manager agent at a remote location* as described in the Specification on page 5, lines 7-14.
- b. Species 2, claims 19-23, 49-55, 56, 57, 58, drawn to a method wherein the received data record *comprises a schema defining data and a stylesheet identifier that identifies the style sheet and wherein retrieving a style sheet is based on the identifier and formatting the data record is based on the style sheet and schema* as described in the Specification on page 5, lines 23-29 and page 6, lines 1-4.
- c. Species 3, claims 11, 13-15, 30-31, 37-38, 41-43, drawn to a method wherein the received data record *comprises a message type selected from a plurality of message types* wherein each message type has a style sheet associated with it as described in the Specification on page 7, lines 22-29 and page 8, lines 1-5.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is

Art Unit: 2176

finally held to be allowable. Currently, claims 1-8, 10, 16-18, 24-28, 32-36, 39-40, and 44-48 are generic.

Claims 1-8, 10, 16-18, 24-28, 32-36, 39-40, and 44-48 generic to the following disclosed patentably distinct species: Species 1, claims 9, 12, and 29, drawn to a method wherein the received data record *comprises a network resource utilization and/or even indicator data collected by an application manager agent at a remote location* as described in the Specification on page 5, lines 7-14; Species 2, claims 19-23, 49-55, 56, 57, 58, drawn to a method wherein the received data record *comprises a schema defining data and a stylesheet identifier that identifies the style sheet and wherein retrieving a style sheet is based on the identifier and formatting the data record is based on the style sheet and schema* as described in the Specification on page 5, lines 23-29 and page 6, lines 1-4.; Species 3, claims 11, 13-15, 30-31, 37-38, 41-43, drawn to a method wherein the received data record *comprises a message type selected from a plurality of message types* wherein each message type has a style sheet associated with it as described in the Specification on page 7, lines 22-29 and page 8, lines 1-5.

The species are independent or distinct because they require a different field of search. Species 1 is directed to network resource utilization and/or event indicator data collected by a manager agent at a remote location, classified in class 709/223. Species 2 drawn to a data record comprising a schema and/or stylesheet is drawn to class 715/513. Species 3, drawn to a data record comprising a message type selected from a plurality of message types is classified in class 707/1.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Response to Arguments

2. Applicant's arguments filed 01/17/06 have been fully considered. Examiner has presented a new election requirement above. The species are distinct because they are drawn to different embodiments that are patentably distinct from each other. In this case, Species 1 is drawn to a method wherein the received data record comprises a network resource utilization and/or even indicator data collected by an application manager agent at a remote location; whereas Species 2 is drawn to a method wherein the received data record comprises a schema defining data and a stylesheet identifier that identifies the style sheet and wherein retrieving a style sheet is based on the identifier and formatting the data record is based on the style sheet and schema. Species 3 is drawn to a method wherein the received data record comprises a message type selected from a plurality of message types wherein each message type has a style sheet associated with it.

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rachna Singh whose telephone number is 571-272-4099. The examiner can normally be reached on M-F (8:30AM-6:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on 571-272-4136. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

Art Unit: 2176

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

RS

03/29/06

A handwritten signature in black ink, appearing to read 'D. Hutton', with a stylized flourish at the end.

Doug Hutton
Primary Examiner
Art Unit 2176